LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 1034

STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JANUARY 14, 2025

SUMMARY

Synopsis: Requires disclosure of lead drinking water hazards to tenants of residential units; prohibits landlords from obstructing replacement of lead service lines; concerns testing of residential rental units for lead drinking water hazards.

Type of Impact: Annual cost and revenue increases to the State and local government units.

Agencies Affected: Department of Health; Department of Community Affairs; Department of Environmental Protection; the Judiciary; certain local units.

Office of Legislative Services Estimate

Fiscal Impact	Annual
State Cost Increase	Indeterminate
Potential State Revenue Increase	Indeterminate
Local Cost Increase	Indeterminate
Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) determines that the bill will result in an indeterminate annual cost increase to operate a public community water system associated with conducting tests of lead levels in drinking water as may be requested by residential customers.

- To the extent that a public community water system operated by a local unit chooses, and is approved, to adjust its rate base collected from customers to offset costs associated with conducting drinking water testing pursuant to the bill, the public community water system will see an increase in revenues.

- The Department of Health, the Department of Environmental Protection, and the Department of Community Affairs have several administrative responsibilities established in the bill which may result in increased costs to those agencies.

- The OLS notes that to the extent that there are violations of the bill's provisions, the Department of Environmental Protection will see increased revenues associated with collecting fines in the following amounts: $100 for a first violation, $500 for a second violation, and $1,000 for a third and subsequent violation.

- The bill permits the Department of Environmental Protection to bring a civil action against a person found to be in violation of a provision of the bill in the Superior Court. This may result in an increase in costs to the State.

BILL DESCRIPTION

This bill requires the disclosure of lead-contaminated drinking water hazards to tenants of residential units, prohibits landlords from obstructing the replacement of lead service lines, and establishes certain requirements for the testing of residential rental units for lead drinking water hazards.

This bill would require the Department of Health, in consultation with the Department of Community Affairs and the Department of Environmental Protection, to develop a notice concerning the health risks associated with lead in drinking water, including protective measures for minimizing exposure to lead in drinking water. The notice would be periodically updated as deemed necessary by the Commissioner of Health and made available to the public by the Department of Health and the Department of Community Affairs.

The bill would also require the Department of Community Affairs, in consultation with the Department of Health and the Department of Environmental Protection, to prepare a model "Lead In Drinking Water Disclosure" statement. The model notice would be made available to the public by the Department of Community Affairs and the Department of Health. The bill specifies that the bill does not impose a duty upon a licensee of the New Jersey Real Estate Commission to provide the disclosure statement to the tenant of a property for which the licensee is not the landlord.

The bill would require a public community water system to, upon request by a residential customer, perform a test for lead. A system would be required to perform up to one test per year for a customer, unless a test result exceeds the lead action level. If a test exceeds the lead action level, a customer may request a test every 60 days for the presence of lead until two consecutive tests fall at or below the lead action level. The system would be required to provide the results of every test authorized by the bill to the customer. The system would not be permitted to charge a customer a fee for the test. A system regulated by the Board of Public Utilities would be permitted to petition the board to include in the system's rate base the reasonable costs of testing. A system not regulated by the Board of Public Utilities would be authorized to include in the system's rates the reasonable costs of testing.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that the bill will result in an indeterminate annual cost increase to local units that operate a public community water system associated with conducting tests of lead levels in drinking water as may be requested by residential customers.

While the bill does not exempt public community water systems from testing drinking water for lead in owner-occupied units that were constructed after 1986, it may be unlikely for these customers to request testing as the federal government prohibited the use of leaded pipe and solder in 1986. Rental units that have been determined not to be serviced by a lead service line, and seasonal rental units, are exempted from testing requirements. Based on the American Community Survey 1-Year Estimates, there are approximately 2,688,931 homes in the State that were built before 1987. At the United States Environmental Protection Agency's estimated rate of $15 to $100 per test, public community water systems may experience an aggregate cost increase of up to $268,893,100 if each of the estimated 2,688,931 homes built prior to 1987: (1) is eligible pursuant to the bill; and (2) requests testing. This estimate does not include the cost of potential repeated tests, which are required by the bill in a case where the results of a lead test exceed the action level; the OLS is unable to predict the percentage of initial tests that will result in exceeded lead action levels and potential subsequent testing. This estimate is an aggregate number for all public community water systems, including those that are privately owned and those owned by local governments. However, the OLS is unable to estimate the number of residential units built before 1987 which are: (1) seasonal rental units; (2) serviced by a service line that is not a lead service line; (3) owned by customers; or (4) resided in by tenants who will not request a test.

To the extent that a public community water system operated by a local unit chooses, and is approved, to adjust its rate base collected from customers to offset costs associated with conducting drinking water testing as required by the bill, the public community water system will see an increase in revenues. The OLS is unable to estimate how many customers are served by public community water systems that are operated by local units and therefore the extent of potential fiscal impacts on local units as a result of the bill. However, the OLS notes that the State has 561 active public community water systems and the Board of Public Utilities regulates approximately 13 privately-owned water companies in the State.

In addition, to the extent there are violations of the bill's provisions, including with respect to landlords' responsibilities to their tenants pursuant to the bill, the Department of Environmental Protection will see increased revenues associated with collecting fines in the following amounts: $100 for a first violation, $500 for a second violation, and $1,000 for a third and subsequent violation. Penalties would be enforced in the Superior Court, which may result in increased costs to the State.

The Department of Health, in consultation with the Department of Environmental Protection and the Department of Community Affairs, would be required to develop a notice that provides customers information concerning health risks associated with lead in drinking water. This notice would be periodically updated as deemed necessary by the Commissioner of Health and made available to the public by the Department of Health and the Department of Community Affairs. The Department of Community Affairs would also be required to prepare a model "Lead In Drinking Water Disclosure" statement for landlords to provide to tenants with information concerning certain lead in drinking water risks associated with the rental property, and make this

information available to the public in conjunction with the Department of Health. The bill also requires public community water systems to provide the results of every drinking water test conducted pursuant to the bill to the customer. These responsibilities may result in increased administrative costs to the three departments as well as to local units that operate a public community water system.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).